

REMARKS**Enablement objections under 35 U.S.C. § 112, first paragraph with regard to 12-16 and 18-21 are overcome.**

The Office Action objected to independent claims 18 and 21 on the grounds that it was “unclear how the firm head-support portion is capable of extending far enough outward from the seat back such that the head-support portion will provide sufficient lateral support to prevent rolling forward of the user’s head beyond the extending dimension of the head-support portion ...” (Office Action at pp. 2-3). Dependent claims 12-16 and 20 were rejected as indefinite since each depends from claim 18 or 21. (Office Action at p. 3.)

The claim is not intended to speak to the drooping forward of the head, but rather the rotation of the user’s head to the side, in which case it would tend to go around the head-support portion to the outside and then forward toward the chest—unless the head-support portion extends far enough outward from the seat back to resist the lateral rotation. Applicant submits that if the claim is amended to convey this meaning, there is no enablement issue. Thus, Applicant has amended claim 21 as follows: “adapted for extending far enough outward from said seat back ~~and said base portion~~ such that said head-support portion will ~~provide sufficient lateral support to prevent~~ resist lateral bending of a user’s neck ~~or the rolling forward of his or her head beyond the extending dimension of said head-support portion~~ and lateral rotation of said user’s head ...”.

Claim 18 has been amended similarly. The enablement issues regarding dependent claims 12-16, 19, and 20 stemmed only from their nature as dependent upon claims 18 and 21. Thus, applicant respectfully submits that the specification is sufficient to enable a person skilled in the art to make and use the invention as claimed in claims 12-16 and 18-21.

The amendments overcome the rejections based on indefiniteness under 35 U.S.C. § 112, second paragraph, to independent claim 21 and dependent claims 12, 13, 14, 15, 16, and 20.

Applicant appreciates the Examiner's attention in pointing out issues regarding indefiniteness in the Office Action. In consideration of these issues, the Applicant has made the amendments discussed below.

Claim 21

The Office Action (at p. 3) stated that in line 13 of claim 21 "the surface opposite from said base portion" lacked proper antecedent basis. This phrase has been amended to read "said surface opposite ...". To provide proper antecedent basis, claim 21 has been amended to include the phrase "having a surface opposite from said base portion" rather than the phrase "having two opposite surfaces".

Claims 12, 14, and 16

The Office Action (at p. 4) stated that claims 12, 14, and 16 were indefinite since each depended from claim 21. Applicant respectfully submits that the amendment to claim 21 thereby overcomes the objection to dependent claims 12, 14, and 16.

Claim 13

The Office Action (at p. 3) stated that in line 3 of claim 13, it is "unclear if 'said means for wrapping around said front and rear surface of said seat back' is intended to be the same structure as the previously set forth 'means for wrapping around the front and rear surfaces of said seat back'."

Claim 13 has been amended to delete "around said rear surface of said seat back" to make it clear that "said means for wrapping" in claim 13 is intended to be the same structure

as the previously set forth “means for wrapping around said front and rear surfaces of said seat back” in claim 21.

Claim 15

As to claim 15, the Office Action (at pp. 3-4) stated “it is unclear how the head-support portion is considered engaged with the base portion ‘in’ a pivoting means. It appears that the head-support portion is engaged with the base portion with a pivoting means.” Claim 15 has been amended to delete the word “in” and substitute the word “with” to overcome the objection.

Claim 20

The Office Action (at p. 4) stated that in claim 20, it was unclear if “a strap loop surrounding a strap and a slide-back stopper” was intended to be same feature as the previously set forth “means for wrapping”. To make the meaning clear, claim 20 has been amended as follows: “[a] headrest according to claim 18 wherein: said ~~inflatable structure~~ means for wrapping comprises a strap loop surrounding a strap and a slide-back stopper ...”

In view of the foregoing, the applicant submits that claims 12-16, 20, and 21, with the above discussed amendments, are allowable under the second paragraph of 35 U.S.C. § 112. Applicant therefore respectfully solicits reconsideration and allowance thereof.

Drawing objections under 37 CFR 1.83(a) with regard to claims 15, 18, and 21 are overcome.

The Office Action (at p. 4) objected to the drawings on the grounds that they did not show every feature of the invention specified in the claims.

Specifically, with regard to claim 15, the Office Action stated that the head-support portion appeared to be engaged with the base portion with a pivoting means rather than “in” a pivoting means. As discussed above, claim 15 has been amended to replace “in” with “with”.

With regard to independent claims 18 and 21 the Office Action stated that the drawings did not show “[a] firm head-support portion which is adapted for extending far enough outward from the seat back such that the head-support portion will provide sufficient lateral support to prevent the rolling forward of the user’s head beyond the extending dimension of the head-support portion”. (Office Action at p. 4, emphasis original.) As discussed above in relation to the rejection under 35 U.S.C. § 112, first paragraph, claims 18 and 21 have been amended to be clear that the head-support portion is “adapted for extending far enough outward from said seat back such that said head-support portion will resist lateral bending of a user’s neck and lateral rotation of said user’s head”.

Thus, applicant respectfully submits that the drawings are sufficient under 37 CFR 1.83(a).

The objection to claim 18 under 35 U.S.C. § 102(b) that the invention was anticipated by Chow (5,544,378) is overcome because Chow does not teach a structure providing sufficient lateral support.

The Office Action (at pp. 4-5) stated that Chow (5,544,378) anticipated applicant’s independent claim 18, noting “the firm base portion (the back portion of inflatable structure 12, in back of 30), means for wrapping (16, 40), firm head-support portion (front portion of 12, in front of 30), head-support surface (front surface of 12) opposite the base portion.”

Claim 18 defines patentably over Chow. Chow’s device is not intended to provide, nor does Chow’s patent teach, the kind of substantial lateral support provided by Applicant’s

invention. As illustrated in Fig. 1, Chow's device extends forward of the seat back only a short distance—not far enough to resist the rotation of a user's head toward the shoulder. Chow describes the pillow's end sections as being approximately four inches wide (horizontally against the seat back), eight inches high (vertically against the seat back), and, when inflated, approximately three inches thick (extending outward from the seat back). (Chow at col. 1, lines 50-55.) This three-inch distance is not enough to prevent the user's head—when the user is relaxed—from moving laterally. Further, Chow's device does not even provide three inches of outward lateral support, because Chow describes an intermediate portion underneath the user's head that is approximately one and one-quarter inches when fully inflated. (Chow at col. 1, lines 52-53.) When subtracted from three inches of the outward extending dimension of the end section, this leaves only one and three-quarters inches of the end section in the outward extending dimension to resist the lateral force exerted by the user's head. It is clear that with Chow's device, the user's head—when relaxed—will not be supported laterally such that lateral bending of the user's neck and lateral rotation of the user's head will be resisted. Rather, the user's head will tend to roll over Chow's end-section, simultaneously to the side and down toward the chest—laterally and rostrally. That is, the user's head will tend to rotate outward, such that the user's face will be angled away from the forward-looking axis and more toward the side. Having begun this lateral rotating motion, the user's head will then tend to droop toward the chest, necessitating the contraction of contralateral cervical musculature.

Chow's end section actually invites lateral rotation of the user's head because the end section is angled away from the user's head. Chow's device thus increases the tendency of the user's head to rotate to the outside, anteriolaterally.

Thus, Chow is distinct from Applicant's invention under claim 18, as Chow clearly does not comprise a "a head-support portion that is adapted for extending far enough outward from said seat back such that said head-support portion will resist lateral bending of a user's neck and lateral rotation of said user's head".

Further, Chow does not render obvious Applicant's invention. Among other things, Chow lacks any suggestion that the device should be modified so as to meet claim 18 by having lateral support that extends far enough outward to resist lateral neck bending and lateral head rotation. In fact, Chow teaches away from the substantial lateral support afforded by Applicant's invention. As discussed, Chow teaches an end section that is sloping and angled with approximately three inches of extension outward from the seatback—even less effective extension because of the portion of the device residing behind the user's head pushing the head forward. Indeed, Chow declares that the device is to provide "cushioned support for the neck while permitting a full range of head movement." (Col. 1, lines 61-63). There is nothing in the Chow patent suggesting that the device is intended to or is capable of providing support to the user's head so as to allow for the full or substantial relaxation of musculature on the side of the neck that is opposite to the cushion against which the user's head is resting. Thus, it is also appears, that Chow failed to recognize the problem of lateral movement of the head of a fully relaxed user. By providing substantial lateral support missing from Chow's device, Applicant's invention yields unappreciated advantages over Chow. It is fair to say that Applicant's invention represents a great leap forward over Chow, producing new, unexpected results in providing substantial lateral support to a relaxed user's head in the form of an inflatable device detachably attaching with straps to a chair back.

The obviousness objection to claim 19 under 35 U.S.C. § 103(a) is similarly overcome.

The Office Action stated that claim 19, a dependent claim of independent claim 18, was unpatentable over Chow (5,544,378) because Chow showed all claimed features of the instant invention except the tear-drop shape. As discussed above, Chow does not describe a device claimed under claim 18, because Chow does not comprise a “a head-support portion that is adapted for extending far enough outward from said seat back such that said head-support portion will resist lateral bending of a user’s neck and lateral rotation of said user’s head ...”

Further, not only does Chow not make any mention of a tear-drop shape, the tear-drop shape of claim 19 is entirely foreign to the Chow patent. Chow actually teaches away from the tear-drop shape in several ways. First, Chow teaches that the portion of his pillow meant to meet the user’s head is to be part of a larger pillow that has a portion residing behind the user’s head and another end section on the other side of the user’s head. The tear-drop shape of claim 19 is not suited to connecting to a portion behind the user’s head—as there is no part of it approaching the space behind the user’s head. Second, as discussed in the preceding section, Chow teaches an end section that is sloping and angled away from the face, rather than presenting a semi-spherical surface to meet the side of the user’s head, as the tear-drop shape of claim 19 does. Third, the tear-drop shape is not compatible with Chow’s stated aim, which is to provide “cushioned support for the neck while permitting a full range of head movement” (col. 1, lines 61-63). The tear-drop shape limits lateral movement of the head.

Conditional request for constructive assistance and writing of claims

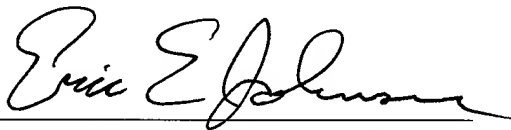
Applicant has amended the specification and claims so that they are proper and definite, and define novel, nonobvious structure. If, for any reason, this application is believed not to be in full condition for allowance, applicant respectfully requests the constructive assistance and suggestions of the Examiner pursuant to MPEP § 2173.02 in order that the applicant can place this application in allowable condition as soon as possible and without the need of further proceedings.

Further, it is submitted that the applicant has clearly presented patentable subject matter. If the Examiner agrees, but does not feel that the present claims are technically adequate, applicant respectfully requests that the Examiner write acceptable claims pursuant to MPEP 707.07(j).

CONCLUSION

For all the reasons given above, and on the basis of the amended and claims, applicant respectfully submits that the specification is complete, that the claims are in compliance with 35 U.S.C. § 112, the drawings are sufficient under 37 CFR 1.83(a), and that the claims define patentable subject matter under 35 U.S.C. § 102 and 35 U.S.C. § 103. Accordingly, the applicant submits that this application is now in full condition for allowance, which action applicant respectfully solicits.

Very respectfully,



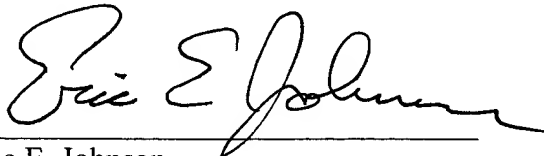
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Enclosed: New drawing sheet 5 of 7 and a copy of drawing sheet 5 of 7 marked in red to indicate the corrections to Fig. 5B.

Certificate of Mailing: I certify that this correspondence will be deposited with the United States Postal Service as Express Mail with proper postage affixed in an envelope addressed to "Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" on the date below.

Date: February 7, 2005



Eric E. Johnson

DRAWINGS**Voluntary correction to Fig. 5B**

Applicant has voluntarily submitted a corrected Fig. 5B. The previous Fig. 5B showed the line representing the edge of the user's shoulder or body appearing through 14, head-support portion. The amended Fig. 5B deletes that portion of the line.

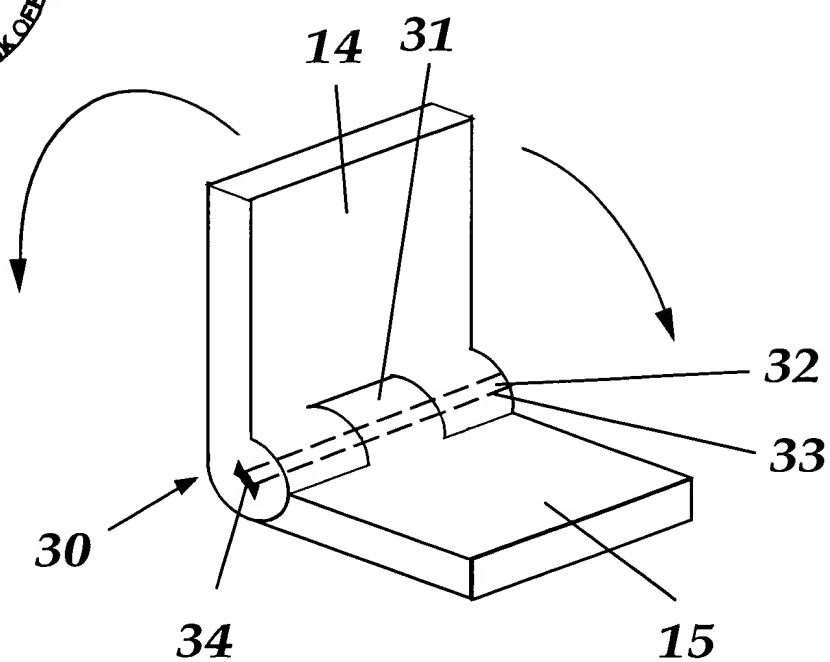


FIG. 5

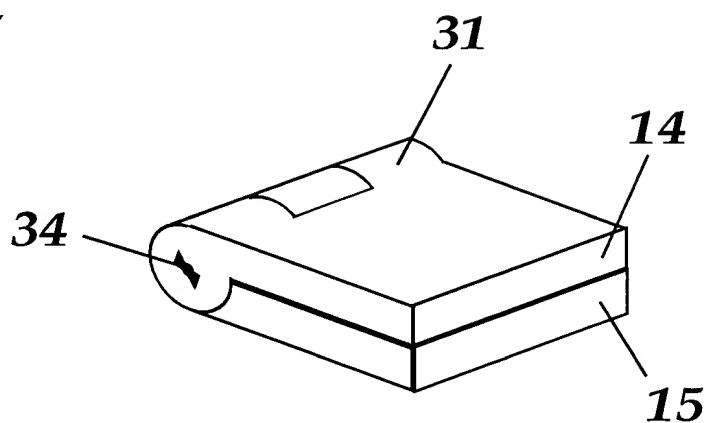


FIG. 5A

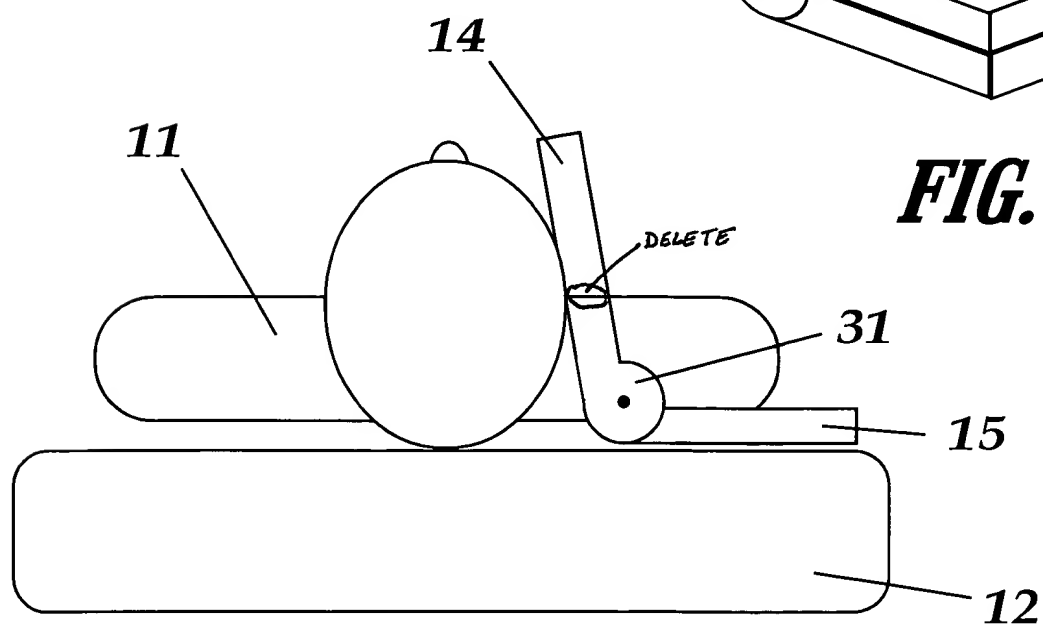


FIG. 5B

